



City of Westminster

Licensing Sub-Committee Report

Item No:	
Date:	16 January 2020
Licensing Ref No:	19/14111/LIPV - Premises Licence Variation
Title of Report:	Flesh & Buns 29 - 33 Berners Street London W1T 3LR
Report of:	Director of Public Protection and Licensing
Wards involved:	West End
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Michelle Steward Senior Licensing Officer
Contact details	Telephone: 020 7641 1872 Email: msteward1@westminster.gov.uk

1. Application

1-A Applicant and premises			
Application Type:	Variation of a Premises Licence, Licensing Act 2003		
Application received date:	29 October 2019		
Applicant:	Bone Daddies Ltd		
Premises:	Flesh & Buns		
Premises address:	Ground Floor 32 Berners Street London W1T 3LR	Ward:	West End
		Cumulative Impact Area:	None
Premises description:	The premises operates as a Japanese restaurant with bar at ground floor level in the new Copyright Building development on Berners Street. Planning Permission has been granted for the external area which expires on the 30 September 2020 and a Tables and Chair Licence is in existence which expires on 3 May 2020.		
Variation description:	<p>The changes sought by way of this variation are as follows:</p> <ul style="list-style-type: none"> • Authorise the sale of alcohol for consumption off the premises • Add the following licence condition: <p>“The supply of alcohol for consumption off the premises shall only be to persons seated in the designated external seating area.”</p> <p>Please see attached plan of external area.</p>		
Premises licence history:	The premises has had the benefit of a Premises Licence since 2017. The current Premises Licence 18/10957/LIPRW is attached at Appendix 4 of this report together with a full history.		
Applicant submissions:	There are no submissions from the applicant.		

1-B Current and proposed licensable activities, areas and hours						
Late night refreshment						
Indoors, outdoors or both		Current :			Proposed:	
		Both			No Change	
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	23:00	23:30	No Change		Ground Floor Only	No Change
Tuesday	23:00	23:30				
Wednesday	23:00	23:30				
Thursday	23:00	23:30				
Friday	23:00	00:00				
Saturday	23:00	00:00				
Sunday	N/A	N/A				
Seasonal	Current:			Proposed:		

variations/ Non-standard timings:	None	No Change
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Sale by Retail of Alcohol

On, off sales or both		Current :		Proposed:		
		On Sales		Both		
	Current Hours		Proposed Hours		Licensable Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	10:00	23:30	No Change		Ground Floor Only	Ground Floor and designated external seating area
Tuesday	10:00	23:30				
Wednesday	10:00	23:30				
Thursday	10:00	23:30				
Friday	10:00	00:00				
Saturday	10:00	00:00				
Sunday	12:00	22:30				
Seasonal variations/ Non-standard timings:		Current:			Proposed:	
		None			No Change	

Hours premises are open to the public

	Current Hours		Proposed Hours		Premises Area	
	Start:	End:	Start:	End:	Current:	Proposed:
Monday	10:00	23:30	No Change		Ground Floor Only	No Change
Tuesday	10:00	23:30				
Wednesday	10:00	23:30				
Thursday	10:00	23:30				
Friday	10:00	00:00				
Saturday	10:00	00:00				
Sunday	12:00	22:30				
Seasonal variations/ Non-standard timings:		Current:			Proposed:	
		None			No Change	

1-C	Layout alteration
There are no changes to the layout sought by way of this variation.	

1-D	Condition being added
Condition	
The supply of alcohol for consumption off the premises shall only be to persons seated in the designated external seating area.	

2. Representations

2-A Responsible Authorities	
Responsible Authority:	Environmental Health Service
Representative:	Anil Drayan
Received:	26 November 2019
<p>I refer to the application for variation of the premises licence for the above premises.</p> <p>The applicant has submitted plans showing the proposed external seating area, ref 095.EP/01E, dated MAR 2019.</p> <p>The applicant is seeking the following:</p> <ol style="list-style-type: none"> 1. Authorise the sale of alcohol for consumption off the premises from 10:00 to 23:30 Monday to Thursday, 10:00 to 00:00 Friday and Saturday and 12:00 to 22:30 Sunday <p>I wish to make the following representation based on the plans and operating schedule submitted:</p> <ol style="list-style-type: none"> 1. The sale of alcohol for consumption off the premises and for the hours requested may lead to an increase in public nuisance in the area. <p>Environmental Health also makes the following comments:</p> <ul style="list-style-type: none"> • Additional condition has been offered and is under consideration as to whether this is sufficient to allay Environmental Health concerns. • Clarification is needed on whether the area designated is public highway or private forecourt • Is there a proposed capacity for the external area and what are the hours of operation? <p>The applicant is requested to contact the undersigned to arrange a site visit and discuss the above after which Environmental Health may propose additional conditions.</p> <p>At the time when this report was written no correspondence has been received from the applicant.</p>	

2-B Other Persons	
Name:	██████████
Address and/or Residents Association:	██████████ ██████████ ██████████
Status:	Valid
In support or opposed:	Opposed
Received:	25 November 2019
<p>Noise, lack of privacy to ██████████, and obstruction of the path. These tables are far too close to the front door of ██████████, they are virtually underneath the windows of the lower floor flats and to have people eating so close to their windows is unacceptable. There are already so many tables outside in this area the noise is escalating, not only with people sitting outside and lingering beyond closing time, but also the constant scraping of tables and chairs as they are taken inside at night and put out in the morning. People hanging around on</p>	

this pavement outside this restaurant is already causing an obstruction, let alone having additional tables blocking the pathway. It's completely impractical.

Name:

[REDACTED]

Address and/or Residents Association:

[REDACTED],
[REDACTED]
[REDACTED]

Status:

Valid

In support or opposed:

Opposed

Received:

26 November 2019

[REDACTED] [REDACTED], which is a building comprising 10 flats (2 flats per floor) with four shop units at ground floor level. Flesh & Buns, 32 Berners Street, opened in September 2018 and is the first retail premises to immediately neighbour Berners Mansions since the completion of the new building that year. The previous neighbouring building was Copyright House, built in the 1950s that did not contain any retail space at all.

[REDACTED], [REDACTED] and I am providing a pdf (Attachment 1) with some photos that show the extremely close proximity of Flesh & Buns [REDACTED]. The pavement space and the entrance to the restaurant is very close indeed to [REDACTED] room/sitting room window and to the window of [REDACTED]. It is also very close to the living space of the 9 other flats in Berners Mansions.

What I am concerned about with this application is a significant loss to our residential amenity through the significant nuisance I expect will be caused by:

- Customers immediately outside our flat, chatting at tables and drinking. Although the planning officer's report said there would be "no significant impact", I can only conclude he must have limited his visits to the daytime, during normal working hours, Monday to Friday. I would urge the licensing team to visit on most weekday evenings and at any time during the weekend, when the street is usually remarkably quiet and is when we are usually at home of course.
- The loss of the designated smoking area. The permitted plan shows a table and two chairs occupying the current area designated for smokers, so where will smokers be directed to? Condition 32 of the existing licence says that the designated smoking area will be "situated South of the premises entrance on Berners Street" "away from Berners Mansions"
- The noxious fumes of people who may start smoking at the 2 tables and 4 chairs that are to the North of the premises entrance, towards Berners Mansions - how will smoking by people at these tables be prevented?
- Noise from glassware on the tables will be particularly noticeable, and condition 11 of the existing license prohibits glass containers outside.
- Inability of restaurant staff to properly supervise the area given that they are operating such a large restaurant, and their track record of not acting when there have been disturbances caused by their customers, usually when larger groups leave the restaurant, often later at night. I have kept a noise and incidents diary since April of this year (Attachment 2) – it does not record every incident that has been a nuisance, these are where I have taken the trouble to collect video/photo evidence, where the nuisance had already been going on for several minutes before I decided to record it. One incident in July and the response from the restaurant's management did cause me to lodge a formal complaint in August with the Westminster Licensing Team.

I have brought the pattern of disturbances to the attention of the restaurant's management as recently as a meeting with residents held on 23 September 2019, at which the notes I prepared (Attachment 3), in the section confirmed with the management say "F&B agreed with the suggestion that their staff could be more vigilant and more actively manage those leaving the restaurant, for instance by asking groups of customers to disperse quietly, or re-enter the restaurant to wait for their taxis" The noise and incident diary shows that disturbances have subsequently occurred several times.

I have also started recording in the noise and incident diary when I have noticed non-compliance with the newly-granted planning permission for these tables and chairs. In summary since the beginning of November:

- The tables and chairs have never been set out in accordance with the agreed plan, all 3 tables have always been placed to the North of the entrance.
- On 3 occasions the chairs were set out perpendicular to the frontage and therefore further out into the pavement than the agreed plan.
- I have noted two occasions when customers were using the tables and chairs other than for a meal, which included a group of 6 people using the tables and chairs while at least one of them was smoking to the North side of the entrance, and they had pulled two chairs further out on the pavement.
- On two occasions the tables and chairs were out beyond the 21.30 deadline stated in condition 3 of the planning permission - once it was at least 22.00 and, on the other occasion, they were not put away until 22.15.
- Non-compliance with their Operational Management Plan - Para 1J and the end of Section 3 refer to notices being displayed in the seating area...and use the area quietly and respectfully etc. The notices will direct customers to the designated smoking area. I have not seen any such notices being displayed.

The restaurant's management has clearly not taken the trouble to properly introduce and comply with these new conditions. They are also often not complying with the conditions and the spirit of their existing premises licence, and this application to vary that licence disregards and/or is inconsistent with several conditions in the existing licence.

The close proximity of these premises to where I live means that noise and odours easily enter my flat through the windows. The noise from customers such as their chatting would adversely [redacted] considerably, especially if they have been consuming alcohol as they will be more likely to be talking loudly or even shouting. It will be happening almost immediately underneath the window [redacted] and would be especially disturbing on warm days and evenings when we are more likely to have [redacted], which is precisely when this sort of nuisance is more likely.

The management's inability or unwillingness to act in a responsible, neighbourly way means I have very little confidence in their ability to operate these tables and chairs in a way that will not add to the nuisance and loss of residential amenity they are already causing.

I therefore request that this application is rejected so as to prevent this further nuisance and corresponding additional loss of residential amenity.

Please see Appendix 3 for supporting documents.

Name:	[redacted]		
Address and/or Residents Association	[redacted] [redacted] [redacted]		
Status:	Valid	In support of opposed:	Opposed
Received:	26 November 2019		

I would like to submit my comment on the application by Flesh & Buns, 32 Berners Street, for the placement of an outdoor seating area immediately adjacent to our building. I live in [redacted], [redacted], [redacted] restaurant.

The addition of this space will make a big difference to all residents in my building. The biggest disruption would be to those on the lower floors, as the tables would pretty much be directly below their windows, but I fully expect a very noticeable impact to those higher up as well. I have already noted disruption from groups leaving the restaurant and lingering outside talking,

at very late hours as well.

Berners Street is a very quiet street on weeknights and during weekends. The area is busy during the day, but as soon as the working day is over, the profile changes and any noise is very noticeable. This is a big reason why I choose to live there.

I also take issue with the placement of the tables and the positioning of the smoking area. Both because the presence of the tables is likely to push smokers away from those eating, and very likely, to directly under our windows, and also generally, I expect that those seated at the tables will also be smoking, again, directly sending the fumes into our windows.

The staff has not been managing either the groups waiting to enter or leaving the restaurant, or the smokers either, despite our conversations with management. There have been instances of queues outside our windows, noisy disruption late at night from people leaving, and I am concerned that the expansion of this license will only make things more disruptive.

Name:		[REDACTED]	
Address and/or Residents Association		[REDACTED] [REDACTED] [REDACTED] [REDACTED]	
Status:	Valid	In support or opposed:	Opposed
Received:	26 November 2019		

We [REDACTED] is the head lease holder as well as the management company for [REDACTED]. [REDACTED] consists of 10 flats and each of the 10 Flats owns one share in BMML. It is very much a [REDACTED] Community company. [REDACTED] is next door to the premises.

BMML object to the application for the variation of the premises licence to authorise alcohol to be supplied to and consumed by customers seated at the tables on the highway outside of the premises,

The objection is on the following grounds:

Prevention of crime and disorder;

Prevention of public nuisance;

and

Public safety

[REDACTED] is situated next door to the premises site. It is our submission that if the steps adopted as terms and conditions on the premises licence had been followed they would have minimised disruption. There has been a repeated failure by the licence holder to comply with the terms and conditions of the licence, planning permission and the tables and chairs licence. These failings have had a detrimental impact on the licensing objectives.

In March 2018, in response to the application for the premises licence our client wrote to the operator as follows:

“Thank you very much for your letter of 13 February 2018. We have now consulted with a number of our fellow residents and flat owners within [REDACTED]. Since we live in central London we do not expect complete silence at all times. However, even though our road borders Westminster’s West End Stress Area, we still enjoy quiet and relatively peaceful evenings and weekends. That is why we enjoy living here. (Indeed, many flats only have single-pane Victorian sash-windows which are currently sufficient to protect us from intrusive outside noise at night). It is reasonable for us to seek to preserve our current quality of life.

Whilst we would have no real objection to a quiet food-led restaurant opening to core hours in

the unit you wish to operate in that does not, unfortunately, appear to describe Flesh & Buns.

We note with concern that your own website advertises your “restaurant” as “the ultimate Japanese drinking food” and offers “unlimited prosecco” promotions in addition to “Monday Beer and Buns” nights. Time Out’s review of your other Flesh and Buns branch (dated 15 July 2013) observes that:

“ Hidden in a capacious Covent Garden basement, Shonhan’s second venture is no less modish. Once again he’s taken influence from the Big Apple for his East Asian eats, with a side order of loud rock music... [and] If loud guitar music and DIY dining are not your idea of a relaxing meal, then Flesh and Buns is not for you.”

A Google search of Flesh and Buns’ Earlham Street branch, describes it as an :

“Izakaya pub-style venue with a rock soundtrack, serving steamed buns with meat or seafood filling”.

We are also aware that your other branch has external speakers playing rock music in the street in an effort to attract customers without a booking.

You will understand, we hope, why our proper concerns about your venture are neither illusory nor baseless. Clearly, a premises that concentrates as much on alcohol as on food, promotes loud rock music, and models itself on a Japanese-style pub (you will be aware that Izakaya literally means “a roof with alcohol”), is not appropriate so close to residential premises.”

On the basis of this strong objection an agreement was reached in respect of strict conditions on the premises licence to control the operation inside and outside the premises. The premises licence granted reflected the agreement in stating no off sales and imposing conditions –

“9. The premises shall only operate as a restaurant

- (i) in which customers are shown to their table,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non-disposable crockery,
- (iv) which do not provide any take away service of food or drink for immediate consumption,
- (v) which do not provide any take away service of food or drink after 23.00, and
- (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

...

11. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke shall not be permitted to take drinks or glass containers with them.

...

32. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 8 persons at any one time.

33. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly. The notices shall direct customers to the designated smoking area.

34. The premises licence holder shall designate a smoking area away from Berners Mansions, situated South of the premises entrance on Berners Street.”

These terms and conditions reflect the acceptance by the licence holder that such terms and conditions are appropriate and proportionate to promote the licensing objectives.

Applications have recently been granted in respect of planning permission for the placing of 3

tables and 6 chairs on the highway and a tables and chairs licence for the same items. Whilst it may be argued that the licensing and planning regimes are separate it is the case that in determining the licensing application regard should be had to all the circumstances including the terms and conditions set out in any planning permission and in any tables and chairs licence were they have an impact on the promotion of the licensing objectives.

On 22nd October, the Planning committee gave planning permission for the placing of 3 tables and 6 chairs and a heater as set out on the plan as approved by the committee. The furniture has to be set out as per that drawing by virtue of condition 2. They can only place the furniture out between the hours 10am and 9.30pm each day (see condition 3). Customers may only be on the tables and chairs between the same hours (see condition 4). The planning permission is only valid to 30th September 2020 (see condition 6). The tables and chairs have to be operated in accordance with the operational management plan received by planning on 4th September (see condition 8).

There are 4 informatives, number 2 requires a street trading licence to be in force before the furniture is placed on the pavement. Number 3 advises that the tables and chairs are kept within the area permitted by the plan for the times specified in the street trading licence when in place. Number 4 advises that if the operational management plan is not complied with and complaints are received concerning failure to comply with the plan may result in the planning permission not being renewed. (A copy of the plan is attached).

According to the Westminster Council website a tables and chairs licence was granted on 4th November 2019. A copy of the licence is not available on the website and at this stage the full terms and conditions are not known to us. We anticipate that the licence will refer to a plan. We believe that such plan will be the same as the planning permission plan and the same as the plan which has been submitted as part of this variation application.

You will note that from the diary of incidents set out by the resident from flat number 2 and also from the photographs attached, that the current positioning of the tables and chairs is not the same as the layout on the plan for planning or in respect of this application, both in positioning at right angles to the building line as opposed to parallel with the building line on 3 occasions and in the positioning of 3 tables and 6 chairs north of the main entrance as opposed to the plan which positions 1 table and 2 chairs south of the main entrance, every day.

This demonstrates that the licence holder has little regard for compliance with the planning permission and tables and chairs licence in place.

Tables and chairs were placed out from 1st November 2019 which we understand was before the tables and chairs licence had been granted.

It can also be seen from the diary and photographs that the tables and chairs have been placed out on the highway outside of the hours authorised on at least 2 occasions.

It is our submission that given the planning permission and tables and chairs licence have both recently been granted and should be fresh in the mind of the operator a failure to comply with terms and conditions is concerning. Further, as the operator is aware that another application is under consultation and therefore their actions would be under the microscope, it is even more concerning. Both these factors would result in a responsible licence holder and responsible operator being vigilant over compliance. However, the operator appears incapable of compliance with the planning permission and tables and chairs licence or worse does not care whether they comply or not and is deliberately disobeying the licensing authority and planning authority. The behaviour of the operator gives no confidence that they will do what they say they will do and cannot be trusted to comply. Such breaches do not promote the prevention of crime and disorder. We respectfully submit that the licensing committee should not be looking to reward these failings by granting the variation to the premises licence but should be stating to the applicant – 'no' – we are not satisfied that you will comply with terms and conditions and therefore the variation should be refused. The committee could say to the applicant prove you can operate in accordance with the current authorisations and then reapply and it can be reconsidered on its merits.

Prevention of public nuisance:

There appears to be evidence of nuisance and disturbance which is evidenced as set out in the diary. The diary sets out the inability of restaurant staff to properly supervise the area directly outside the restaurant, and the track record of staff not acting when there have been disturbances caused by the premises customers, when larger groups leave the restaurant, often later at night. The diary has been kept by a resident since April 2019, and whilst it does not record every incident that has been a nuisance, it does record instances where the resident has taken video/photo evidence, and where the nuisance had already been going on for several minutes.

One incident in July and the response from the restaurant's management did cause the resident to lodge a formal complaint in August with the Westminster Licensing Team.

The pattern of disturbances has been brought to the attention of the restaurant's management as recently as a meeting with residents held on 23 September 2019, at which the notes the resident prepared, in the section confirmed with the management say "F&B agreed with the suggestion that their staff could be more vigilant and more actively manage those leaving the restaurant, for instance by asking groups of customers to disperse quietly, or re-enter the restaurant to wait for their taxis".

The noise and incident diary shows that disturbances have subsequently occurred several times.

In addition there have been further instances of noise from customers outside the premises as they leave.

For example, on 31st October 2019, a resident reported a lot of disturbance from one big group of customers which lasted from 00.30 Friday morning until 00.45. It makes it more disturbing for the residents to have to call the restaurant about something like this when they are trying to 'switch off and go to sleep'. There is also the suggestion that the premises were open and operating well after the opening hours in their license. Further dates are set out in the diary and video evidence will be supplied supporting the description set out. Such as 3rd November at 00:39 when around 10 customers were outside the premises and 24th November when around 9 customers were outside causing noise at around 00:17.

A relevant factor in this application is the condition concerning smokers. Condition 34 of the premises licence requires the location of the smoking area to be south of the main entrance. This was done by agreement to prevent any nuisance from the smoke and noise of the smokers. If this application is granted then the licence plan will be inconsistent with the licence conditions because a table and 2 chairs are in the way for smokers. This is not just an issue for this application but also for the planning permission and the tables and chairs licence too. The current layout requires tables and chairs to be located in the smoking area. The operators are not doing this but are in breach of their authorisations positioning all tables and chairs south of the entrance doors.

It is our submission that a responsible operator would comply with the tables and chairs licence and planning permission and premises licence by placing 2 tables and 4 chairs north of the main entrance as per the plan and not place any table or chairs to the south of the entrance. The Operational Management Plan - Para 1J and the end of Section 3 refer to notices being displayed in the seating area... The notices will direct customers to the designated smoking area. One small notice is displayed on the end wall which is not sufficient for the purpose of indicating to customers that the smoking area is located south of the entrance. It can also be seen from the diary and photos that customers have not seen the notice or have ignored the notice or are not being managed by staff as they sit and smoke on the chairs to the north of the entrance.

A further breach of the premises licence is in respect of condition 33. From the photographs the green notice can be seen. This notice does not address the issue in condition 33.

The licensing authority, responsible authorities and residents expect high standards of operation from licence holders. The significant number of breaches of important elementary terms and conditions of the various authorisations in place demonstrate that the licence holder cannot be trusted to comply with the high standards required and therefore this variation application should be refused.

Public Safety

We note that in respect of the planning permission the committee refer to the condition on layout of tables and chairs as in respect of public safety. Therefore, a failure to comply with the condition on layout would potentially raise the issue of public safety.

If the committee proceed to grant the application in whole or in part we would seek to address the committee on any conditions to be proposed. No additional conditions have been proposed as part of the application and we would submit that is demonstrative of the applicants cavalier attitude to the licences and authorisations in place. A careful consideration of the licence would have recognised that the application if granted gives rise to issues on the licence conditions. The proposal directly affects the operation of the conditions set out from the requirement that food not be sold for consumption immediately outside the premises, alcohol for consumption inside the premises, the location of the smoking area and the maximum number of smokers permitted. The application does not address the issues set out above.

For the reasons set out above we submit that the application should be refused.

Please see Appendix 3 for supporting documents.

3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:

Policy HRS1 applies

(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.

(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.

For premises for the supply of alcohol for consumption on the premises:

Monday to Thursday: 10:00 to 23:30

Friday and Saturday: 10:00 to midnight

Sundays immediately prior to Bank Holidays: Midday to midnight

Other Sundays: Midday to 22:30

For premises for the supply of alcohol for consumption off the premises:

Monday to Saturday: 08:00 to 23:00

Sundays: 10:00 to 22:30

For premises for the provision of other licensable activities:

Monday to Thursday: 09:00 to 23.30

Friday and Saturday: 09:00 to midnight

Sundays immediately prior to Bank Holidays: 09:00 to midnight

Other Sundays: 09:00 to 22:30

Policy RNT1 applies

Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.

4. Equality Implications

The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

4. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Objectors supporting documents
Appendix 4	Premises history
Appendix 5	Proposed conditions
Appendix 6	Residential map and list of premises in the vicinity

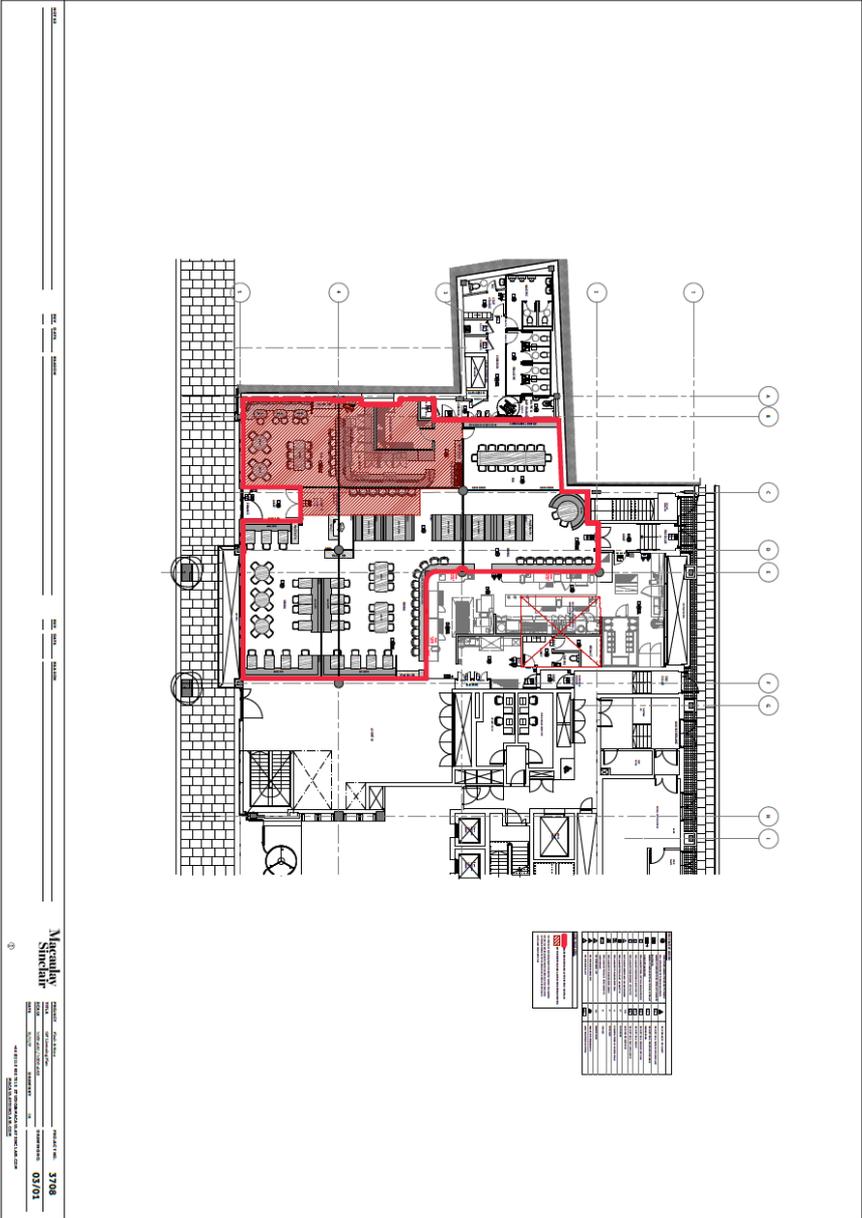
Report author:	Michelle Steward Senior Licensing Officer
Contact:	Telephone: 020 7641 1872 Email: msteward1@westminster.gov.uk

If you have any queries about this report or wish to inspect one of the background papers please contact the report author.

Background Documents – Local Government (Access to Information) Act 1972

1	Licensing Act 2003	N/A
2	City of Westminster Statement of Licensing Policy	7 th January 2016
3	Amended Guidance issued under section 182 of the Licensing Act 2003	April 2018
4	Environmental Health Representation	26 November 2019
5	Representation 1	25 November 2019
6	Representation 2	26 November 2019
7	Representation 3	26 November 2019
8	Representation 4	26 November 2019

Current Plan attached to Premises Licence 18/10957/LIPRW



Mapconly
Surrey
3708
03/01

Photographs of the Premises



Bone Daddies Ltd – 32 Berners Street

Operational Management Plan

Revision 1

This Operational Management Plan will be implemented to ensure that the external dining area is properly managed by staff and used by customers. The management plan will control the use of the external area and guarantee there are no adverse effects on the surrounding properties in particular those at Berners Mansions.

1. Conditions of use

In accordance with the licensing conditions the applicant will seek to restrict the premises by way of conditions to the planning permission to include the following:

- A. The seating area will only be available to patrons of the restaurant who are seated.
- B. Customers using the area will be served by waiter/waitress service only.
- C. Waiters/waitresses will regularly service the area and closely monitor customer behaviour.
- D. Service to the external area will cease at 2100hrs, with a closure of the area at 2130hrs.
- E. Management will ensure that no litter or rubbish is left on the highway and the area will be checked and cleared on a regular basis.
- F. Smoking will not be permitted within the seating area, customers who wish to smoke may only do so South of the premises entrance on Berners Street away from Berners Mansions in accordance with conditions 31 and 32 of the premises license.
- G. No music shall be played within the seating area.
- H. The seating area will be monitored by staff at all times to ensure customers are not causing a nuisance in terms of noise to local neighbours.
- I. The maximum number of patrons within the seating area shall be no more than 6 at any one time.
- J. Notices will be displayed within the seating area requesting patrons to respect the needs of local residents and use the area quietly. The notices will direct customers to the designated smoking area.
- K. There shall be no queuing within the external seating area.

2. Customer Ordering Procedure

Staff must guide customers to a table when they enter the external dining area. This will ensure that customers have a table and ensures the capacity limits are not breached. The external area will be covered by waiting staff at all times.

3. Customer Management

The dining area will not be open to the public from 1000hrs to ensure noise is limited in the morning. Any customers wishing to sit outside before 1000hrs will not be permitted to do so.

Service to the area will cease at 2100hrs. All customers will leave the external dining area by 2130hrs to ensure that there is no late-night noise from the external area. All customers will be informed of the closing times in advance of the external seating area closure and will be escorted from the external dining area at 2130hrs. Care will be taken to ensure customers do not make unnecessary noise when vacating the area.

The external dining area will have no more than 6 seated customers and they will not be permitted to stand/loiter in the seating area; any standing customers will be escorted indoors or off the premises. All customers will be guided to their seats to ensure that the 6-customer limit can be enforced.

An incident log should be recorded and maintained, which logs all incidents occurring within the seating area. Examples of this includes complaints received by customers/ local residents and any other relevant incidents. The incident log should be regularly checked by a senior member of staff. Any complaints or incidences can be report to the management team at:

Email: fitzrovia@fleshandbuns.com

Telephone: 020 301 93492

Notices must be displayed in the seating area at all times, reminding customers to respect the local and surrounding residents and to use the area in a respectful and quiet manner.

4. Crime and CCTV

The external dining area will be closely supervised by staff at all times it is in use. Waiter/Waitresses will regularly service the area and be trained to be vigilant to spot and prevent crime risk factors. Customers will be reminded to keep a close eye on personal belongings.

The external dining area will be covered by estate management CCTV systems and 24/7 security officers operating in the area to help deter and prevent crime.

5. Employees

All employees will be trained and inducted in the management of the external dining area.

Employees will monitor the outdoor area to ensure there are no standing customers, no loud antisocial behaviour and the area is not used outside the permitted times under any circumstances whatsoever.

6. Waste and Servicing

Staff cleaning the area will be quick, efficient and quiet. The majority of the clearing of noisy items such as plates and glasses will be immediately after customers have finished their food. This will ensure there is diminutive noise from cleaning after the permitted hours of use.

The majority of the servicing of the area after this time will be general cleaning, such as wiping of the tables and clearing of any litter.

These controls will ensure the area is used considerately and that there is no adverse impact on the surrounding area and the area is used for its intended purpose.

Refuse arising from the seating area will be stored within the existing refuse store located at ground floor level.

.....

Supporting documents from Mr Michael Poole



General view of 32 Berners Street and Berners Mansions.

Note that the area for tables and chairs immediately neighbours Berners Mansions which comprises 10 flats.

Prior to 2018, the neighbouring building had been "Copyright House", built in the 1950s that did not contain any retail space at all.



Close proximity of area for tables and chairs to etc living room windows.

View from [REDACTED] showing the close proximity of the tables and chairs, which are immediately adjacent to and immediately below our living room window. (Photo taken 02 November 2019 - Note also how tables and chairs are not arranged according to the agreed plan).



Noise and Incident Diary from [REDACTED] and Berners MM Limited

LICENSING DIARY IN RESPECT OF THE OPERATION AT FLESH AND BUNS, UNIT 1 25-33 BERNERS STREET LONDON W1

- I have not recorded every incident; these are where I have video/photo evidence, where the nuisance had already been going on for several minutes before I decided to record it; on many occasions there has been nuisance, but I did not want to interrupt what I was doing to record it (for instance because recording it and getting more annoyed could stop me sleeping/getting to sleep later).
- Usually large groups hanging around late at night, saying their goodbyes and waiting for taxis.
- You can usually see how quiet and deserted the rest of Berners Street is.

Date	Time of Incident/ Noise	Time Incident/ Noise Stopped	Describe what happened	(Details of follow up action and impact), or Tables and Chairs further info
04/04/2019 Thurs	23.15 BST		2? Groups of 3 + 4 people; the group of 4 chatting and laughing loudly	
08/04/2019 Mon	23.15 BST		Group of 3 guys chatting, shouting and swearing for several minutes	
02/06/2019 Sat (Sun)	00.32 BST 32 mins after closing time		Group of 8 people talking loudly; included a vehicle that had arrived to meet them the wrong way up Berners Street!. Commotion for 5+ minutes	
04/07/2019 Wed (Thurs)	00.03 BST 33 mins after closing time		9+ people hanging around and chatting for 5+ minutes	
26/07/2019 Fri	11.50 BST	14.15 BST	Very long queue directed towards Berners Mansions and around the corner onto Mortimer Street. Noisy. Some smokers. Blocking entrance to Berners Mansions. Called and spoke with Emilie Raynal to complain and ask them to redirect the queue. No apology and nothing changed for the 2.5 hours while people were queuing.	Complained via email, via Licensing project, formal complaint to Westminster Council.
30/07/2019 Tues	23.02 BST		9+ people talking and laughing loudly for several minutes saying their goodbyes	
06/08/2019 Tues	22.45 BST		8+ people talking and laughing loudly for several minutes	
08/08/2019 Thurs	21.46 BST		2 smokers talking loudly, agitatedly, some mock fighting	
15/08/2019			Westminster CAB letter sent to F&B on behalf of residents	
15/08/2019 Thurs	23.25 BST		8+ people talking and laughing loudly for several minutes	
15/08/2019 Thurs	23.32 BST		6 people talking and laughing loudly for TEN minutes; behaving very boisterously; 1 smoker	

Date	Time of Incident/ Noise	Time Incident/ Noise Stopped	Describe what happened	(Details of follow up action and impact), or Tables and Chairs further info
17/08/2019 Sat	23.00 BST		10+ people talking and laughing loudly and shouting/misbehaving for several minutes	
21/08/2019 22/08/2019			I lodged a formal complaint with WCC licensing Senior City Inspector (Kay Cummings) visited the premises (complaint subsequently closed on 10/09/2019 as no new formal complaints made in that time)	
07/09/2019 Sat	18.00 BST		5 people talking and laughing loudly for several minutes	
12/09/2019 Thurs	23.56 BST 26 mins after closing time		3+ people talking and laughing loudly for several minutes; 1 smoking immediately under my window	
23/09/2019	18.30		Meeting with residents of Berners Mansions at Flesh & Buns	
20/10/2019 Sat (Sun)	00.25 BST 25 mins after closing time		10+ people talking and laughing loudly for approx. 5 minutes	
21/10/2019 Sun (Mon)	00.24 BST 124 mins after closing time		7+ people noticeably talking and laughing loudly (photo)	
01/11/2019 Thurs (Fri)	00.31 GMT 61 mins after closing time		Very large group (or several groups?) totaling at least 16 people, laughing loudly, shouting, one jumping around – for at least 10 minutes (several videos).	
01/11/2019 Fri	20.18 photo			First time seen tables set out, all 3 to the North of the entrance with chairs incorrectly oriented
02/11/2019 Sat	12.00 photo			Tables and chairs set out incorrectly, as above
03/11/2019 Sat (Sun)	00.38 38 mins after closing time		Group of at least 11 people, noisy talk and boisterous behavior; several in the road, 1 strolling up and down the pavement under my window, on the phone, some smoking (several videos, inc showing Greyhound Café in darkness; closed long before this)	
04/11/2019 Mon	21.37 to 22.00 several photos			Tables and chairs still out after 21.30 All 3 tables North of the entrance.
05/11/2019 Tues	19.02 photo 22.15 photos			Tables and chairs not put away until 22.15 All 3 tables North of the entrance
06/11/2019 Wed	11.47 photo			All 3 tables set out to the North of the entrance with chairs incorrectly oriented
07/11/2019 Thurs	21.10 photo			All 3 tables North of the entrance

Date	Time of Incident/ Noise	Time Incident/ Noise Stopped	Describe what happened	(Details of follow up action and impact), or Tables and Chairs further info
08/12/2019 Fri	19.12 photo			All 3 tables North of the entrance
12/11/2019 Tues	12.57 photo			All 3 tables North of the entrance
17/11/2019 Sun	16.31 photo			All 3 tables North of the entrance
19/11/2019 Tues	20.32 photo			Someone using a chair while making a phone call, has pulled the chair out, alongside the table All 3 tables North of the entrance
24/11/2019 Sat (Sun)	00.17 38 mins after closing time		Group of 9+ talking loudly, behaving boisterously for several minutes, loudly shouting their goodbyes as they walk away. (two videos, inc showing Greyhound Café in darkness; closed long before this)	
24/11/2019 Sun	16.06 several photos			All 3 tables North of the entrance
24/11/2019 Sun	19.08 photo			Group of 6 people chatting at the tables and chairs while at least one of them was smoking; 2 chairs pulled out into the pavement.

Documents provided with the representation from Berners MM Limited

Minutes from Residents Meeting with Flesh and Buns

Note of a meeting with residents of Berners Mansions re Flesh & Buns
at Flesh & Buns, 29-33 Berners Street, on Monday 23 September 2019 at 18.30

Flesh & Buns / Bone Daddies (F&B)

- Steve Hill, Operations Director
- Emilie Raynal, General Manager

Berners Mansions Residents (BMR)

[REDACTED]

Notes prepared by BMR, confirmed by email with F&B

1. Friendly meeting to help put faces to names and be good neighbours.
2. Regarding the long queues noted on 25 and 26 July (and earlier that week), F&B:
 - 2.1. Apologised
 - 2.2. Gave a commitment that this would not happen again and that any queues would be directed away from BM.
3. BMR highlighted that the area around BM is usually generally quiet most weekday evenings and all day at weekends, so F&B customers making a noise caused a disturbance
 - 3.1. MP highlighted that this seemed to happen when groups of customers remained on the pavement outside F&B, usually waiting for a taxi
 - 3.2. F&B agreed with the suggestion that their staff could be more vigilant and more actively manage those leaving the restaurant, for instance by asking groups of customers to disperse quietly, or re-enter the restaurant to wait for their taxis.
4. SH emphasised that he was keen to be contacted if there was anything that could be done to improve matters. He is not at this F&B site every day but is contactable via steve@bonedaddies.com or by calling 07 712 586 926
 - 4.1. ER is on-site most days and is the primary contact for operational matters that require attention from someone on-site.

Notes reserved for BMR / BMML only

- A. The preferred date of Wednesday 18 September was not available; 3 others ([REDACTED] [REDACTED] [REDACTED]) could have made it in addition that day.
- B. ER said at the meeting that she had apologised to MP when he called on 26 July to complain about the queue; this was not the case but MP did not want to challenge this in what was a friendly meeting.
- C. SH raised the matter of the tables & chairs planning application at the end of the meeting
 - i. He gave the impression that it would help passers-by realise that there was a restaurant located there
 - ii. He emphasised that he thought it would help better-manage smokers, especially people smoking in that area that were not customers of F&B (although DN and MP would dispute this of course)
 - iii. BMR highlighted that many of the licence conditions were in place to ensure the area of pavement in question was not occupied, as people occupying this space caused more of a disturbance to BM residents because of the immediate proximity of this space to BM; MP also highlighted that F&B had plenty of capacity inside and so did not need these additional tables and chairs
 - iv. SH did mention a couple of times the possibility of a compromise of only placing planters outside the restaurant with no tables and chairs at all, although he did mention this would be "a first step" (DN and MP's immediate thoughts are that planters etc could be ok, although not if they would create an enclosed area that people could occupy)

Photos from Berners M M Limited

Photos



Photos



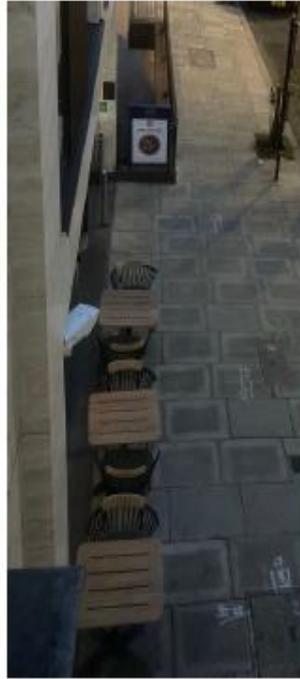
Photos



Photos



Photos



Photos



Photos



Photos



Photos



Operational Management Plan For Bone Daddies Limited from Berners M M Limited

Bone Daddies Ltd – 32 Berners Street Operational Management Plan Revision 1

This Operational Management Plan will be implemented to ensure that the external dining area is properly managed by staff and used by customers. The management plan will control the use of the external area and guarantee there are no adverse effects on the surrounding properties in particular those at Berners Mansions.

1. Conditions of use

In accordance with the licensing conditions the applicant will seek to restrict the premises by way of conditions to the planning permission to include the following:

- A. The seating area will only be available to patrons of the restaurant who are seated.
- B. Customers using the area will be served by waiter/waitress service only.
- C. Waiters/waitresses will regularly service the area and closely monitor customer behaviour.
- D. Service to the external area will cease at 2100hrs, with a closure of the area at 2130hrs.
- E. Management will ensure that no litter or rubbish is left on the highway and the area will be checked and cleared on a regular basis.
- F. Smoking will not be permitted within the seating area, customers who wish to smoke may only do so South of the premises entrance on Berners Street away from Berners Mansions in accordance with conditions 31 and 32 of the premises license.
- G. No music shall be played within the seating area.
- H. The seating area will be monitored by staff at all times to ensure customers are not causing a nuisance in terms of noise to local neighbours.
- I. The maximum number of patrons within the seating area shall be no more than 6 at any one time.
- J. Notices will be displayed within the seating area requesting patrons to respect the needs of local residents and use the area quietly. The notices will direct customers to the designated smoking area.
- K. There shall be no queuing within the external seating area.

2. Customer Ordering Procedure

Staff must guide customers to a table when they enter the external dining area. This will ensure that customers have a table and ensures the capacity limits are not breached. The external area will be covered by waiting staff at all times.

3. Customer Management

The dining area will not be open to the public from 1000hrs to ensure noise is limited in the morning. Any customers wishing to sit outside before 1000hrs will not be permitted to do so.

Service to the area will cease at 2100hrs. All customers will leave the external dining area by 2130hrs to ensure that there is no late-night noise from the external area. All customers will be informed of the closing times in advance of the external seating area closure and will be escorted from the external dining area at 2130hrs. Care will be taken to ensure customers do not make unnecessary noise when vacating the area.

The external dining area will have no more than 6 seated customers and they will not be permitted to stand/loiter in the seating area; any standing customers will be escorted indoors or off the premises. All customers will be guided to their seats to ensure that the 6-customer limit can be enforced.

An incident log should be recorded and maintained, which logs all incidents occurring within the seating area. Examples of this includes complaints received by customers/ local residents and any other relevant incidents. The incident log should be regularly checked by a senior member of staff. Any complaints or incidences can be report to the management team at:

Email: fitzrovia@fleshandbuns.com

Telephone: 020 301 93492

Notices must be displayed in the seating area at all times, reminding customers to respect the local and surrounding residents and to use the area in a respectful and quiet manner.

4. Crime and CCTV

The external dining area will be closely supervised by staff at all times it is in use. Waiter/Waitresses will regularly service the area and be trained to be vigilant to spot and prevent crime risk factors. Customers will be reminded to keep a close eye on personal belongings.

The external dining area will be covered by estate management CCTV systems and 24/7 security officers operating in the area to help deter and prevent crime.

5. Employees

All employees will be trained and inducted in the management of the external dining area.

Employees will monitor the outdoor area to ensure there are no standing customers, no loud antisocial behaviour and the area is not used outside the permitted times under any circumstances whatsoever.

6. Waste and Servicing

Staff cleaning the area will be quick, efficient and quiet. The majority of the clearing of noisy items such as plates and glasses will be immediately after customers have finished their food. This will ensure there is diminutive noise from cleaning after the permitted hours of use.

The majority of the servicing of the area after this time will be general cleaning, such as wiping of the tables and clearing of any litter.

These controls will ensure the area is used considerately and that there is no adverse impact on the surrounding area and the area is used for its intended purpose.

Refuse arising from the seating area will be stored within the existing refuse store located at ground floor level.



Schedule 12
Part A

WARD: West End
UPRN: 100023467760

City of Westminster

64 Victoria Street, London, SW1E 6QP

Premises licence

Regulation 33, 34

Premises licence number:

18/10957/LIPRW

Original Reference:

17/14890/LIPN

Part 1 – Premises details

Postal address of premises:

Flesh & Buns
29-33 Berners Street
London
W1T 3AB

Telephone Number:

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Late Night Refreshment
Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities:

Late Night Refreshment

Monday to Thursday: 23:00 to 23:30
Friday to Saturday: 23:00 to 00:00

Sale by Retail of Alcohol

Monday to Thursday: 10:00 to 23:30
Friday to Saturday: 10:00 to 00:00
Sunday: 12:00 to 22:30

The opening hours of the premises:

Monday to Thursday: 10:00 to 23:30
Friday to Saturday: 10:00 to 00:00
Sunday: 10:00 to 22:30

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:

Alcohol is supplied for consumption on the premises only

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:

Bone Daddies Ltd
54 Cambridge Road
London
England
E11 2PN

Registered number of holder, for example company number, charity number (where applicable)

08184277

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:

Name: Emilie Raynal

Please note: It is the policy of the Licensing Authority not to display the address details of a designated premises supervisor.

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:

Licence Number: LEW3478
Licensing Authority: London Borough Of Lewisham

Date: 18 September 2018

This licence has been authorised by Mary Pring on behalf of the Director - Public Protection and Licensing.

Annex 1 – Mandatory conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
 - (a) a holographic mark, or

- (b) an ultraviolet feature.

7. The responsible person must ensure that –

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8
 - (i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 - (ii) For the purposes of the condition set out in paragraph 8(i) above -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula -
$$P = D + (D \times V)$$
Where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- (iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- (iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating Schedule

None

Annex 3 – Conditions attached after a hearing by the licensing authority

9. The premises shall only operate as a restaurant
 - (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption,
 - (v) which do not provide any take away service of food or drink after 23.00, and
 - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
10. Notwithstanding condition 9, alcohol may be supplied and consumed prior to their meal in the bar area hatched on the plan, by up to a maximum at any one time, of 25 persons dining at the premises.
11. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke shall not be permitted to take drinks or glass containers with them.
12. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
13. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
14. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
15. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
16. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
17. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol

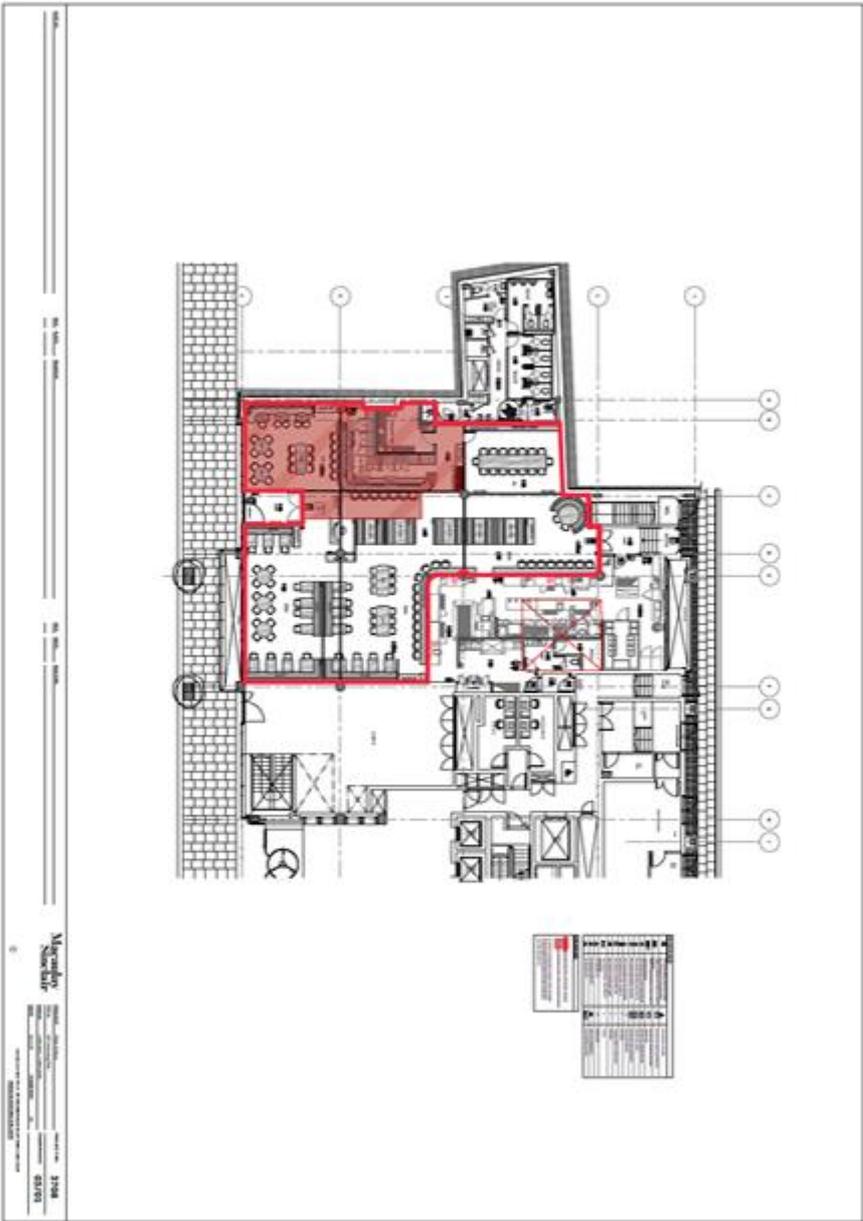
(h) any visit by a relevant authority or emergency service.
18. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

19. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises and that this area shall be swept and or washed and litter and sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
22. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day.
23. Except for deliveries of dairy, bakery products, fruit and vegetables, no deliveries to the premises shall take place between (23.00) and (08.00) on the following day.
24. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day.
25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
26. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a sexual entertainment Venue Licence.
27. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
28. The number of persons permitted within the premises at any one time (excluding staff) shall not exceed [to be agreed with the Environmental Health Consultation Team and District Surveyor].
29. Food delivery drivers shall be directed to access the premises at the rear in Berners Mews and not on Berners Street. Food delivery drivers shall be directed not to leave engines running unnecessarily and not to disturb local residents.
30. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 8 persons at any one time.
31. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly. The notices shall direct customers to the designated smoking area.
32. The premises licence holder shall designate a smoking area away from Berners Mansions, situated South of the premises entrance on Berners Street.
33. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
34. There shall be no DJ's employed at the premises.
35. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
36. All deliveries and waste collections shall take place at the rear in Berners Mews and not on Berners Street.
37. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by staff so as to ensure that there is no public nuisance or

obstruction to the public highway. Any queue shall be formed away from Berners Mansions, to the South of the premises entrance on Berners Street.

38. The licence holder shall organise and publicise a meeting with residents of Berners Mansions 6 weeks after the premises opens to members of the public. Thereafter the licence holder shall organise and publicise quarterly meetings with residents of Berners Mansions. The frequency of these meetings can be amended by agreement between resident representatives and the licence holder.
39. There shall be no external speakers at the premises.

Annex 4 – Plans





City of Westminster
64 Victoria Street, London, SW1E 6QP

Schedule 12
Part B

WARD: West End
UPRN: 100023467760

Premises licence
summary

Regulation 33, 34

Premises licence number:

18/10957/LIPRW

Part 1 – Premises details

Postal address of premises:

Flesh & Buns
29-33 Berners Street
London
W1T 3AB

Telephone Number:

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Late Night Refreshment
Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities:

Late Night Refreshment

Monday to Thursday:	23:00 to 23:30
Friday to Saturday:	23:00 to 00:00

Sale by Retail of Alcohol

Monday to Thursday:	10:00 to 23:30
Friday to Saturday:	10:00 to 00:00
Sunday:	12:00 to 22:30

The opening hours of the premises:

Monday to Thursday:	10:00 to 23:30
Friday to Saturday:	10:00 to 00:00
Sunday:	10:00 to 22:30

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:

Alcohol is supplied for consumption both on the premises only.

Name and (registered) address of holder of premises licence:

Bone Daddies Ltd
54 Cambridge Road
London
England
E11 2PN

Registered number of holder, for example company number, charity number (where applicable)

08184277

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:

Name: Emilie Raynal

State whether access to the premises by children is restricted or prohibited:

Restricted

Date: 18 September 2018

This licence has been authorised by Mary Pring on behalf of the Director - Public Protection and Licensing.

Licence & Appeal History

Application	Details of Application	Date Determined	Decision
17/14890/LIPN	Application for a New Premises Licence	15 March 2018	Granted at Licensing Sub-Committee
18/04486/LIPDPS	Application to vary the Designated Premises Supervisor	8 May 2018	Granted under delegated authority
18/10957/LIPRW	Removal of Works conditions	18 September 2018	Granted under delegated authority

There is no appeal history

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers appropriate for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as appropriate for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

Conditions: On Current Licence -

Mandatory:

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor.

For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D+(D \times V)$$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating Schedule

None

Annex 3 – Conditions attached after a hearing by the licensing authority

9. The premises shall only operate as a restaurant^[1]
 - (i) in which customers are shown to their table^[1]
 - (ii) where the supply of alcohol is by waiter or waitress service only^[1]
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption^[1]
 - (v) which do not provide any take away service of food or drink after 23.00, and^[1]
 - (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

10. Notwithstanding condition 9, alcohol may be supplied and consumed prior to their meal in the bar area hatched on the plan, by up to a maximum at any one time, of 25 persons dining at the premises.
11. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke shall not be permitted to take drinks or glass containers with them.
12. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
13. Substantial food and non-intoxicating beverages, including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
14. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
15. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
16. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
17. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue

- (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
18. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
 19. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
 20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
 21. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises and that this area shall be swept and or washed and litter and sweeping collected and stored in accordance with the approved refuse storage arrangements by close of business.
 22. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (23.00) hours and (08.00) hours on the following day.
 23. Except for deliveries of dairy, bakery products, fruit and vegetables, no deliveries to the premises shall take place between (23.00) and (08.00) on the following day.
 24. No collections of waste or recycling materials (including bottles) from the premises shall take place between (23.00) and (08.00) on the following day.
 25. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
 26. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a sexual entertainment Venue Licence.
 27. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
 28. The number of persons permitted within the premises at any one time (excluding staff) shall not exceed [to be agreed with the Environmental Health Consultation Team and District Surveyor].
 29. Food delivery drivers shall be directed to access the premises at the rear in Berners Mews and not on Berners Street. Food delivery drivers shall be directed not to leave engines running unnecessarily and not to disturb local residents.
 30. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 8 persons at any one time.

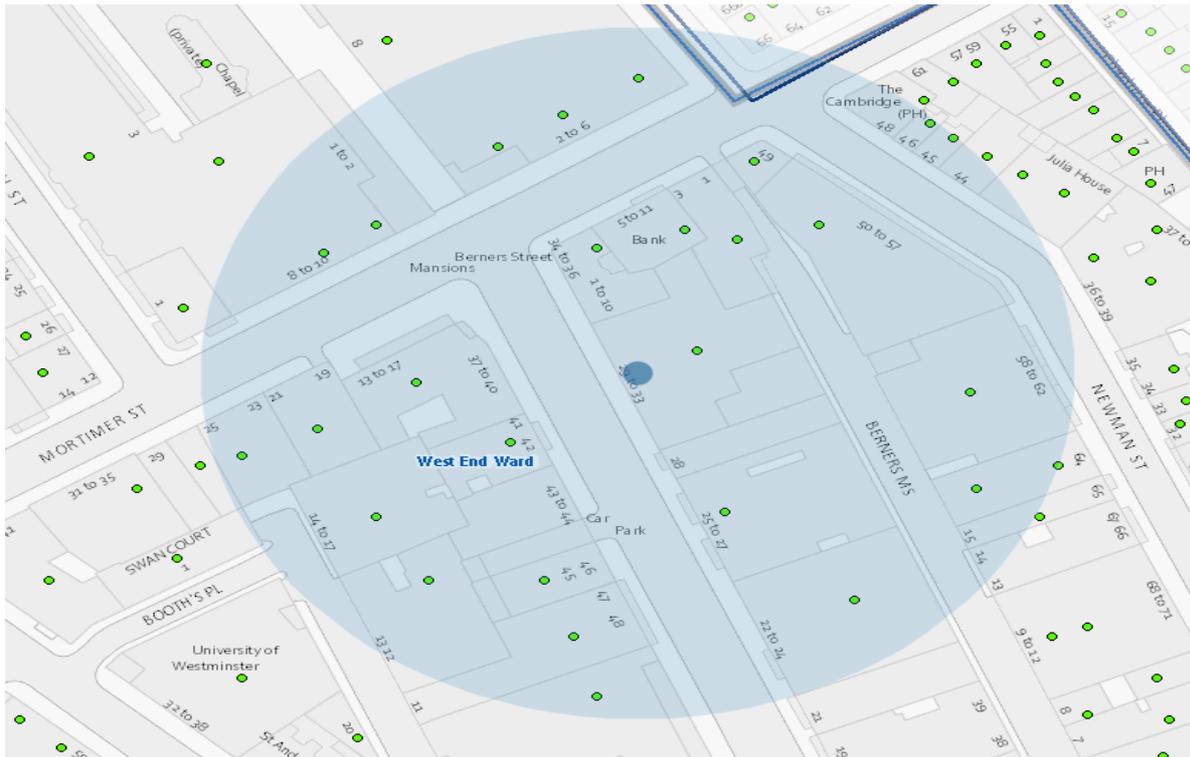
31. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly. The notices shall direct customers to the designated smoking area.
32. The premises licence holder shall designate a smoking area away from Berners Mansions, situated South of the premises entrance on Berners Street.
33. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
34. There shall be no DJ's employed at the premises.
35. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
36. All deliveries and waste collections shall take place at the rear in Berners Mews and not on Berners Street.
37. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by staff so as to ensure that there is no public nuisance or obstruction to the public highway. Any queue shall be formed away from Berners Mansions, to the South of the premises entrance on Berners Street.
38. The licence holder shall organise and publicise a meeting with residents of Berners Mansions 6 weeks after the premises opens to members of the public. Thereafter the licence holder shall organise and publicise quarterly meetings with residents of Berners Mansions. The frequency of these meetings can be amended by agreement between resident representatives and the licence holder.
39. There shall be no external speakers at the premises.

Condition proposed by the applicant by way of this application so as to form part of the operating schedule:

40. The supply of alcohol for consumption off the premises shall only be to persons seated in the designated external seating area.

Conditions proposed by Environmental Health

None



Resident Count: 50

Licensed Premises with 75 metres of Flesh and Buns, Ground Floor 32 Berners Street, London, W1T 3LR				
Licence Number	Trading Name	Address	Premises Type	Time Period
18/09908/LIPN	Not Recorded	29 Berners Street London W1T 3LR	Hairdresser or beauty salon	Monday to Saturday; 08:00 - 20:30 Sunday; 12:00 - 18:30
09/07501/LIPD	Copyright House	29 - 33 Berners Street London W1T 3AB	Restaurant	Monday to Saturday; 10:00 - 23:30 Sunday; 12:00 - 22:30
19/09569/LIPDPS	Greyhound Cafe	Basement And Ground Floor Newlands House 37 - 40 Berners Street London W1T 3NB	Restaurant	Monday to Sunday; 08:00 - 23:00 Saturday; 10:00 - 22:30
18/09777/LIPN	Pure Wines	Ground Floor 21 Berners Street London	Not Recorded	Monday to Sunday; 00:00 - 00:00

		W1T 3LP		
19/08763/LIPDPS	Latium Restaurant	Ground Floor 21 Berners Street London W1T 3LP	Restaurant	Monday to Saturday; 10:00 - 00:00 Sunday; 12:00 - 22:30